

LaPolitics Weekly

By John Maginnis and Jeremy Alford

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Budget Battles Begin

Despite rosy predictions, uncertainty lingers

While the most rambunctious of fiscal fights in even-numbered years usually remain dormant until the session's final stretch, some themes are beginning to surface with the first political trimester coming to a close. Whether the state will have more money to pad the spending plan remains the old faithful of questions, with answers not expected before the Revenue Estimating Conference meets in May.

Gov. Bobby Jindal's administration has already had to tap into its now-fabled reserves for \$43 million to cover a miscalculation of last year's proceeds from the tax amnesty program. The money was destined for the Department of Health and Hospitals, but Commissioner of Administration Kristy Nichols told LaPolitics Tuesday that the unexpected hole was filled with \$15 million in bond premiums and \$28 million in overcollections funds, which were recognized by the REC but had not yet been placed in the 2014-15 budget. Unless the administration has more from where that came from, it diminishes the pool of emergency funds should any other unanticipated shortfalls occur. The Division of Administration did not respond to requests regarding how the miscalculation occurred in the amnesty program.

Elsewhere in HB 1, there are clashes underway on the tourism and marketing fronts as the administration attempts once again to divert money away the New Orleans convention center and one of the lieutenant governor's offices.

Tourism Money is About Control, Limits

The Department of Culture, Recreation and Tourism is facing a transitional phase, beginning with the approaching end of more than \$30 million in marketing money that was granted by BP in the wake of its 2010 oil spill. Lt. Gov. Jay Dardenne, who oversees CRT, said the last cent will be spent by the end of the current fiscal year on June 30. "We're down to a few hundred thousand," he said.

While Dardenne is laying the groundwork for a post-BP money environment, he's also battling Gov. Bobby Jindal over the use of nearly \$4 million worth of so-called pass-throughs in the administration's latest budget proposal. The pass-throughs fund special events using money diverted from the Office of Tourism. The problem is that even though the events are promoted by Dardenne's CRT, the lieutenant governor cannot change the individual budgeted amounts. "I felt all along this office ought to have the discretion to decide which events warrant funding and which don't," Dardenne said.

As a workaround, Dardenne said he is using some of the remaining dollars from the Office of Tourism's self-generated revenues to help underwrite the needs he has identified. In all, Dardenne is pulling about \$1.3 million out of his office's account to help fund other priorities he contends the administration has overlooked.

If he had more control over the money in his office's account, Dardenne said he could start advertising more in other states and bolster the events that produce the biggest returns for Louisiana.

Jindal, Morial Center Negotiating Mutual Funding

Last year, the Jindal administration and the New Orleans convention center board clashed over money, and they both lost. So far this session they are cooperating for mutual benefit.

New Orleans area legislators rallied last year to block Gov. Bobby Jindal's attempt to pull over \$100 million in convention center operating funds and to pay it back with capital outlay money. Later, Jindal vetoed a bill by Speaker Pro Tem Walt Leger, D-New Orleans, that would have created a foundation for the Ernest N. Morial Convention Center board's sweeping development plan along the river.

This year, according to Leger, both are working on corresponding funding plans. The governor's budget would take \$50 million from the convention center with the promise of future capital outlay funding and support for a scaled-back plan to combine public and private investment to develop a hotel, residential units and retail space on the upriver side of the center. Left out this time are any plans for the World Trade Center site, which stirred opposition last year.

"We are working collaboratively with the governor to ensure there is a capital investment to continue to make the convention center competitive" in the tourism and hospitality industry said Leger. "It is all tied together in a more targeted way."

Key to the plan is Leger's HB 788 to allow the convention center to exceed its bonding capacity in order to finance bonds, which, in combination with state capital outlay money, could raise \$125 million to \$175 million that would be used to attract \$800 million to \$1 billion in private investment. Leger said the convention center would pledge revenue generated from the hotel-condo-retail project to pay off the bonds and to not affect the state's debt limit. "We're hoping everyone gets what they want this year," said Leger. "It's too big an opportunity to let this go by."

Landrieu Leads Three Republicans in Senate Poll

In the first poll match-up of all announced Senate candidates, incumbent Sen. Mary Landrieu leads her three Republican rivals with a significant undecided vote remaining. It also has U.S. Sen. David Vitter and New Orleans Mayor Mitch Landrieu running neck-and-neck in the 2015 governor's race.

In the Senate race, the survey conducted for Baton Rouge contractor Lane Grigsby shows: Landrieu, 39.3 percent; Congressman Bill Cassidy, 26.3; state Rep. Paul Hollis, 3.4; Rob Maness, 2.6; and undecided, 28.4 percent.

In the governor's race question, Vitter leads Landrieu, 27.6 to 26.4 percent, a statistical tie. They are followed by: Lt. Gov. Jay Dardenne, 13.1 percent; Treasurer John Kennedy, 8.5; state Rep. John Bel Edwards, 4.6; and undecided, 19.8. Landrieu and Kennedy have not declared they are running.

The 600-sample poll was conducted by Magellan Strategies March 24-26. The margin of error is +/- 4.1 percent. The candidates were identified by party.

In a 2016 presidential match-up, Gov. Bobby Jindal leads former Secretary of State Hillary Clinton, 45-40 percent. Jindal had an approval rating of 45 percent to 46.7 disapproval. Vitter had the highest approval rating of 55.8 percent to 33.4 percent disapproval. Sen. Landrieu had the highest disapproval rating, at 52.2 percent, to 41 percent approval. The best approval-disapproval ratios were for Kennedy, at 49-7 percent, and retired Army Gen. Russel Honoré, at 34-3 percent.

Respondents were split on Common Core education standards, with 41 percent supporting to 40 percent opposing. But when asked about an "education reform package" to "standardize what students are taught in most schools across the United States, while allowing local teachers to develop the curriculum," the margin rose to 47 percent for to 27 percent against.

Since passage of the Affordable Care Act, 43 percent said their deductibles and out-of-pocket expenses have increased. By a 46-42 percent margin, respondents opposed the expansion of Medicaid.

Rep. Williams Will Run for Judge

Add one more legislator to the growing list of those planning to run for another office this fall. Freshman Rep. Alfred Williams, D-Baton Rouge, told LaPolitics he will challenge District Judge Trudy White this November.

"She's my friend and a member of my church, but she can't win," said Williams. According to him, the judge already is being challenged by attorney Gideon Carter III. In 2012, Carter, a Democrat, finished ahead of her when they both challenged Court of Appeal Judge Mike McDonald, who ran first in the primary and then beat Carter in the runoff. White switched to Republican to run against McDonald, also a Republican. Then White switched back to Democrat for her re-election race this fall.

White, Williams and Carter are all African-American. White serves in a minority subdistrict in East Baton Rouge Parish.

"It's less about her and more about her opponent," said Williams. "He's a different kind of guy." Carter did not return a call for comment.

As with other legislators seeking judicial, parish and federal offices, Williams can run this fall without giving up his legislative seat. He said he has filed with the state Ethics Board to be able to raise money for the judicial campaign during the legislative session, when fundraising by legislators is otherwise banned.

Bills Moving to Kill Lawsuits Against Big Oil

With bills to stop Common Core rejected, legislation to kill coastal damages lawsuits against oil companies moves to the legislative forefront.

The first such bill to pass one chamber is SB 547 by Sen. Robert Adley, R-Benton, which he amended to apply almost exclusively to the contract between the Southeast Louisiana Flood Protection Authority-East and its private attorneys in its lawsuit against 97 oil companies. Applied retroactively, it would allow anyone to challenge a SLFPA-E lawsuit if the board's contract with lawyers does not disclose specific information. A key provision would allow a challenge to the contract's "poison pill" provision that would permit the Jones, Swanson, Huddell & Garrison firm to recoup its legal expenses if the flood protection authority or the Legislature discontinues the suit. The bill passed 27-10 Wednesday and is pending House referral.

On Thursday, Adley succeeded in having the Senate Transportation Committee that he chairs approve SB 553 to clarify that the two regional flood protection authorities are state agencies and therefore required to have the approval of the governor and the attorney general before retaining outside counsel. His bill would apply retroactively to SLFPA-E's contract with its attorneys on the grounds, said Adley, that it violated state policy.

On SB 547, Sen. Ed Murray, D-New Orleans, predicted, if passed, it would be declared unconstitutional, but the Senate rejected his amendment to seek a declaratory opinion from the attorney general. On SB 553, retired Army Lt. Gen. Russel Honoré and former flood protection authority vice chairman John Barry raised the same objection to no avail.

The assault on the lawsuits filed by Jefferson and Plaquemines parishes against a set of oil companies begins Monday when the House Civil Law Committee hears HB 862 by Rep. Joel Robideaux, R-Lafayette. It would require that future or current suits alleging violations of coastal zone permits must first be reviewed by the Department of Natural Resources to determine if a violation occurred and to approve an enforcement action. It would further require that any monetary awards from the suits be deposited in the state Coastal Resources Trust Fund.

Harson Claims He's Victim of "Rumor" Campaign

District Attorney Mike Harson of Lafayette told LaPolitics he is "definitely" seeking re-election this fall, despite a well-funded challenge from his former A.D.A. Keith Stutes. "I've heard the rumors and they are not true," Harson said. "I'm running. Why would I be raising all this money? Just to have to return it to people?"

Harson added that his campaign finance account will have collected nearly \$500,000 by the beginning of June, if not more-a sizable amount for a district attorney's race. Stutes, who recently produced his first TV spot, reported having more than \$200,000 in the bank earlier this year.

According to The Advertiser of Lafayette, Harson also mailed out a letter to constituents this week apologizing for "the involvement of three employees in a bribery scheme" and asking them not to let it cloud their election decisions. The ongoing investigation over DWI cases has not been connected back to Harson directly.

In a prepared statement sent to LaPolitics, Stutes said he asked Harson about the program that led to the investigation when he worked for the district attorney. "The investigation and its results brought shame and embarrassment to the office. We did not receive an explanation, nor a response, much less an apology," Stutes said. "He claims that he has been 'cleared' by the investigations, but has yet to explain how a criminal conspiracy, centered on a special program he created and in which his approval was required in every single case, could have gone on without his knowledge and consent."

Liquor Lobby Experiencing Light Session

While the past few years have seen a trend in deregulating alcohol, this session has been relatively light for groups like the Beer League and the Wine and Spirits Foundation of Louisiana. Chris Young, general counsel for both, said it's due in large part to Alcohol and Tobacco Control wrapping up its initial regulatory spree under director Troy Hebert, appointed in 2010.

This session the Beer League is supporting HB 471 by Rep. Marcus Hunter, D-Monroe, to permit the sale of ice cream made with wine. Young said it expands options for entrepreneurs. "Still, it has to be balanced with protecting against access for underage persons," Young said. A vote on the bill has been delayed by the House Judiciary Committee.

Also of interest is how Louisiana law mandates an all-or-nothing vote for dry parishes that want to consider allowing beer, wine or spirits to be sold in their boundaries. Over the past several years, small towns, primarily in north Louisiana, have brought bills to carve out exemptions on the municipal level. It's typically done in an effort to attract national chain stores.

Last year, such a local option bill was passed for the city of Pineville allowing restaurants to sell alcohol. This year Rep Kenny Cox, D-Natchitoches, has brought HB 578 for the same treatment for the city of Mansfield. So, why doesn't the state just take a blanket approach, rather than allowing this piecemeal process? "We probably could, but there's no groundswell of support," Young said.

Other bills being tracked by the Beer League this session include:

- HB 830 by Rep. Bryan Adams, R-Gretna, which would change regulations regarding what size container certain alcohols can be sold in. Young said that businesses are trying out different sizes for ciders and wines, and rules now on the books would limit business options.
- HB 1036 by Rep. Jeff Arnold, D-Algiers, which would allow businesses to donate alcohol directly to nonprofits. Some nonprofits have been utilizing a loophole by accepting monetary donations equal to the amount of beer, wine or liquor that would have been donated, and then purchasing the same.
- HB 345 by Arnold, which would establish a permit process for alcohol brokers, a part of the industry that Young called "completely unregulated." Brokers are marketing representatives that don't work for one specific company.

"Ticked" Author Pulls Back Marijuana Bill

A bill to lessen the penalties for marijuana possession was pulled back in committee Thursday by the author, who said he was "broad-sided" by opposition from the Louisiana Sheriffs Association. HB 14 would decrease the maximum prison sentence for a second offense from five years to two years and for a third offense from 20 years to five years. "I wish I could go further," said Rep. Austin Badon, D-New Orleans, the sponsor.

Opposing the bill was Mike Ranatza of the Louisiana Sheriffs Association, who said, "Possession of marijuana leads to other offenses." He asked that the Legislature wait to see how the decriminalization of marijuana in Colorado works out before it starts reducing penalties in Louisiana.

Pete Adams of the Louisiana District Attorneys Association said his group, while it had reservations about the instrument, would not oppose it, because he previously had made that commitment to the author.

Noting the split in the law enforcement community, Rep. Dalton Honore, D-Baton Rouge, who had deferred his similar bill, asked Badon to voluntarily defer his in order to resolve the differences with those groups. Badon unhappily consented after saying, "I've got a smile on my face, but I'm pretty ticked right now."

He said he had reached out to the sheriffs and was told they did not have a problem with his bill. "They walked in here today and they broad-sided me," he said. "I think that was totally unprofessional and unethical." He then moved to voluntarily defer his bill, which means he could bring it up later. But with the sheriffs opposed, its future is in doubt.

Vitter Casts Wide Fundraising Net

U.S. Sen. David Vitter sent an email to supporters Monday with nothing but "Deadline" in the subject line.

It further read, "Since I announced that I'm running to be Governor of Louisiana, the response has been awesome, and momentum is picking up every day. We need to keep it going! Please help us meet our 1st Quarter fundraising goal. Please donate \$5, \$10, \$25 or more today."

While there is a federal fundraising deadline for the quarter that Vitter's campaign has to follow for his Senate account, statewide candidates don't have to disclosure contributions and expenditures until Feb. 15, 2015.

As for what Vitter meant by the "important fundraising deadline" he wrote to supporters about is unknown. LaPolitics asked the Vitter campaign if it was in reference to the gubernatorial run-and whether that meant those figures would be released early-but there was no response to our requests for comment.

THEY SAID IT

"Depending on who you talk to, I come to the dark side or from the dark side."

-Leading legacy lawsuit attorney Michael Veron

"Traffic cameras are not about policing. They are about fleecing."

-Rep. Jeff Arnold

"What about marijuana?"

-Sen. Bob Kostelka on a bill prohibiting smoking near elementary and secondary schools

"What's the mechanism for getting rid of a bad judge?"

-Sen. Jack Donahue, on legislation to allow judges to serve past age 70

"Well, the people sent us Bob Kostelka."

-Sen. Eric Lafleur, referring to the former judge

"That's worse than the dice table."

-Sen. Greg Tarver, on the Jones Swanson law firm betting millions of dollars of its own money on winning the SLFPA-E lawsuit, which it may not be able to recoup should it lose

"A good lawyer, when the facts are on his side, talks about the facts. When they are not, he talks about something else."

-Sen. Robert Adley

"Some of you wouldn't have got out of school had you not given gifts to the teachers."

-Rep. Johnny Berthelot, on a proposal to allow teachers to accept small gifts valued at \$25

"I heard on the radio that we passed 99 laws out of the House already. I mean, really?"

-Rep. John Schroder

"I left and can't get back in the room."

-House Education Chairman Steve Carter, when his committee room was filled to capacity during the Common Core debate